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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/627,144

07/25/2003

William Helms

83,634

3903

69282

7590

10/14/2008

CRANE NAVAL SURFACE WARFARE CENTER

OFFICE OF COUNSEL

BUILDING 2

300 HIGHWAY 361

CRANE, IN 47552

EXAMINER

HARPER, LEON JONATHAN

ART UNIT

PAPER NUMBER

2166

MAIL DATE

DELIVERY MODE

10/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/627,144

Applicant(s)

HELMS, WILLIAM

Examiner

Leon J. Harper

Art Unit

2166

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendment filed 6/16/2008 has been entered. Claims 20 and 21 have been added. Accordingly, claims 1-6, 15-19, 20-21 are pending in this office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 20 and 21 contain multiple limitations such as "repair/acceptance criteria data" and "and/or". The alphanumeric character / does not clearly indicate the associated criteria. Appropriate correction is required.

Allowable Subject Matter

Claims 20-21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6, 15-19, 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5970475 (hereinafter Barnes)(art of record) in view of US 6768994 (hereinafter Howard) and in further view of US 6901377 (hereinafter Rose).

As for claim 1, Barnes discloses: collecting data relating to third parties (See column 9 lines 49-51) third party assets software modifications (See column 7 lines 1-5), tasks (See column 22 lines 37-41),

Barnes however does not explicitly disclose: asset repair processes, asset storage, at least one federal appropriation related task funding code, repair cost, and warranties; incorporating the collected data into a structured relational database', and

providing a graphical user interface including a plurality of single-click buttons for initiating a user-defined query that allows a user to access the collected data, manipulate the collected data, and selectively display a current status of the assets of the third party Rose however does disclose: new, in process completed task (See column 4 lines 19-21) asset repair processes (See column 2 lines 63-66), at least one federal appropriation task funding code (See column 5 lines 38-40), repair cost and warranties (See column 2 line 65); incorporating said collected information into a structured relational database (See column 6 lines 62-66), providing a graphical user interface including a plurality of single-click buttons for initiating a user-defined query that allows a user to access the collected data, manipulate the collected data, and selectively display a current status of the assets of the third party. (See column 3 lines 40-47). Howard discloses: asset storage (See column 2 lines 15-20 and 30-40), and such that said interface is adaptable to constantly changing user requirements (See figure 34 and column 16 lines 1-15). It would have been obvious to an artisan of ordinary skill in the pertinent art to have incorporated the teachings of Rose and Howard into the system of Barnes. The modification would have been obvious because it has historically been difficult for manufacturers of equipment to provide services for their clients (See Rose column 1 lines 16-17). Also large companies sometimes have employees handling the ordering or parts or handling the repair and warranty process, and the overhead associated with not having a centralized database can cost parties millions of dollars a year (See Barnes column 1 lines 48-51).

As for claim 2 the rejection of claim 1 is incorporated, and further Barnes discloses: assigning one of a plurality of levels of access rights to the user (See column 8 lines 42-47).

As for claim 3 the rejection of claim 1 is incorporated, and further Howard discloses real-time performance (See column 3 lines 20-30 and column 9 lines 30-35).

As for claim 4 the rejection of claim 1 is incorporated, and further Rose discloses: constructing data files from said collected information on-the-fly (See column 4 lines 12-19).

As for claim 5 the rejection of claim 1 is incorporated, and further Barnes discloses: collecting data of constantly changing third party/customer information (See column 10 lines 4-6).

As for claim 6 Barnes discloses: means for collecting data that characterizes third parties/customers, third party assets, software modifications, (See column 9 lines 49-51 and column 7 lines 1-5, and See column 22 lines 37-41), a first data storage record for storing the collected data relating to third parties (See column 9 lines 49-51); a second data storage record for storing the collected data relating to third party/customer assets- (column 7 lines 1-5) a third data storage record for storing the collected data relating to software modifications (See column 22 lines 37-41); a

Rose however does disclose: new, in-process, and completed tasks, a fourth data storage record for storing the collected data relating to new tasks, a fifth data storage record for storing the collected data relating to in-process tasks; a sixth data storage record for storing the collected data relating to completed tasks; (See column 5 lines 8-35 note this is all done by the overhaul communication module) asset repair processes, a seventh data storage record for storing the collected data relating to asset repair processes; (See column 2 lines 63-66), task funding, and , a ninth data storage record for storing the collected data relating to task funding (See column 5 lines 38-40), and warranties, a tenth data storage record for storing the collected data relating to asset warranties (See column 2 line 65); at least one graphical user interface having a plurality of single-click buttons for initiating one of said plurality of user-definable queries', and a computer for maintaining said first through said tenth data storage records and said plurality of user-definable queries and allowing a user to access, manipulate, and display selected structured data indicating the current status of third party assets located in a military repair/supply depot. (See column 3 lines 40-47).

Howard however discloses: asset storage, and an eighth data storage record for storing the collected data relating to asset storage (See column 2 lines 15-20 and 30-40) and such that said interface is adaptable to constantly changing user requirements (See figure 34 and column 16 lines 1-15). It would have been obvious to an artisan of ordinary skill in the pertinent art to have incorporated the teachings of Rose and Howard into the system of Barnes. The modification would have been obvious because it has historically been difficult for manufacturers of equipment to provide services for their

clients (See Rose column 1 lines 16-17). Also large companies sometimes have employees handling the ordering or parts or handling the repair and warranty process, and the overhead associated with not having a centralized database can cost parties millions of dollars a year (See Barnes column 1 lines 48-51).

As for claim 14 the rejection of claim 6 is incorporated, and further Barnes discloses: a log in graphical user interface (See column 18 lines 28-31).

As for claim 15 the rejection of claim 6 is incorporate, and further Barnes discloses: a plurality of levels of user access rights (See column 8 lines 42-47).]

As for claim 16 the rejection of claim 15 is incorporated, and further Barnes discloses: said plurality of levels of user access rights includes at least one or more administration level (See figure 13 and column 16 lines 38-40).

As for claim 17 the rejection of claim 16 is incorporated, and further Barnes, Rose, and Rad differs from the claimed invention in that wherein a level of user access right: is selected from the group consisting of administration, production controller administration, production controller, technician, logistics, engineering, and guest. However it would have been obvious to an artisan of ordinary skill in the pertinent art at the time the invention was made to have incorporated a level of user access rights consisting of the group, administration, production controller administration, production

controller, technician, logistics, engineering, and guest. The modification would have been obvious because different levels of access will determine what changes the user can and cannot make to the system (See Barnes column 9 lines 46-48 "setting up users and setting their details").

As for claim 18 the rejection of claim 6 is incorporated, and further Howard discloses real-time performance (See column 3 lines 20-30 and column 9 lines 30-35).

As for claim 19 the rejection of claim 6 is incorporated, and further Rose discloses: constructing data files on-the-fly (See column 4 lines 12-19).

Response to Arguments

Applicant's arguments filed 6/16/2008 have been fully considered but they are not persuasive.

Applicant argues:

In fact, the cited section of Rosenfeld actually discloses ONLY "initial cost estimates" rather than, inter alia, "at least one federal appropriation related task funding code" AND "repair cost". Even assuming Applicant accepts the Examiner's argument, only one but not both claim elements are disclosed thus claim 1 is clearly distinguished over Barnes and Rosenfeld. Online dictionary www.miriamwebster.com defines cost as, inter alia, "the amount or equivalent paid or charged for something" and defines funding as, inter alia, "to make provision of resources for discharging the interest or principal of b: to provide funds for " These two terms, cost and funding, have two entirely different meanings thus cannot both be found in the referenced section of Rosenfeld which only speaks to "initial repair cost". The concept of funding is understood to have a separate meaning than cost given both terms are independent variables and constraints on decisions which are undertaken using the claimed invention. Further, Mirriamwebster.com defines appropriation as inter alia, "an act or instance of appropriating; 2: something that has been appropriated; specifically: money set aside by formal action for a specific use." Nowhere in the cited section of Rosenfeld is any discussion of how initial cost estimate would teach or suggest a concept or action such as associated with "appropriation", much less "federal appropriation."

Examiner responds:

Examiner is not persuaded. Applicant cites the definition of cost and funding and states that "www.mirriamwebster.com defines cost as, inter alia, the amount or equivalent paid or charged for something" and defines funding as, inter alia, ~to make provision of resources for discharging the interest or principal of b: to provide funds for ." Applicant then states that because there are two different meanings accordingly both cannot be contained within the Rosenfeld's reference to initial repair cost. Examiner states that the definitions of cost and funding while being substantially different in scope are not mutually exclusive. Since cost is the amount or equivalent paid for something, Cost is equal to the price of the item or the price of the item with any other fees (tax, interest) which add to the total price or cost. Funding is making provision of resources for discharging the interest or principal of. However the interest or principal of something is simply the cost. Consequently, Funding is simply making provision of resources for different costs.

Applicant argues:

No such teaching, suggestion or motivation is present in the cited references. Without using the present claims as a roadmap, it would not have been obvious to make the multiple, selective modifications needed to arrive at the claimed invention from the cited references. The rejections are based on an impermissible hindsight reconstruction of the present invention from the cited references that is not based on an apparent reason to combine the known elements in the fashion claimed by the patent at issue."

See KSR Slip Op. at 14; See also *Ex parte Clapp*, 227 U.S.P.Q. 972 (Bd. App. 1985) (requiring convincing line of reasoning" to support obviousness determination). The fact that the present invention was made by the Applicant does not make the present invention obvious; that suggestion or teaching must come from the prior art. See *C.R. Bard, Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1352 (Fed. Cir. 1998).

Examiner responds:

Examiner is not persuaded. In response to applicant's argument on pages 11-13, *a prima facie case of obviousness* is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art. Once such a case is established, it is incumbent upon appellant to go forward with objective evidence of unobviousness. *In re Fielder*, 471 F.2d 640, 176 USPQ 300 (CCPA 1973).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leon J. Harper whose telephone number is 571-272-0759. The examiner can normally be reached on 7:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LJH
Leon J. Harper
October 8, 2008

/Hosain T Alam/
Supervisory Patent Examiner, Art Unit 2166